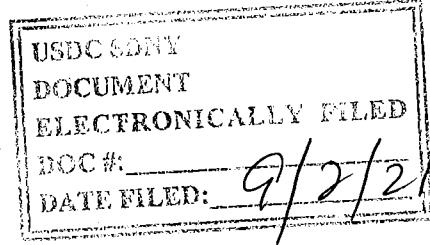


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x
 ZINDY SHWARTZ, :
 Plaintiff, :
 v. :
 :
 BARCLAYS BANK DELAWARE, and :
 EQUIFAX INFORMATION SERVICES, INC., :
 Defendants. :
 -----x

ORDER

21 CV 5476 (VB)

On June 22, 2021, plaintiff Zindy Shwartz commenced the instant action against defendants Barclays Bank Delaware (“Barclays”) and Equifax Information Services, Inc. (Doc. #1). On June 23, 2021, the Clerk of Court issued summons as to Barclays. (Doc. #6). And on June 25, 2021, plaintiff docketed proof of service indicating service on Barclays on June 24, 2021. (Doc. #9). Accordingly, Barclays had until July 15, 2021, to answer, move, or otherwise respond to the complaint. See Fed. R. Civ. P. 12(a)(1)(A)(i).

As of July 28, 2021, Barclays had not answered, moved, or otherwise responded to the complaint. Accordingly, on July 28, 2021, the Court issued an Order instructing plaintiff to seek a certificate of default as to Barclays and to move for default judgment against Barclays. (Doc. #15).

However, on July 29, 2021, plaintiff filed another affidavit of service indicating service on Barclays on July 29, 2021. (Doc. #16). Pursuant to that affidavit of service, Barclays had until August 19, 2021, to answer, move, or otherwise respond to the complaint. But, by August 31, 2021, Barclays had once again failed to answer, move, or otherwise respond to the complaint. And Barclays had not requested an extension of time to answer, move, or otherwise respond to the complaint. Accordingly, on August 31, 2021, the Court issued an Order directing plaintiff to seek a certificate of default as to Barclays, and to move by order to show cause for a default judgment against Barclays.

Without explanation or excuse, Barclays filed its answer on September 1, 2021—more than two weeks after its answer was due.

A party must typically show “good cause” to set aside an entry of default. See Enron Oil Corp. v. Diakuhara, 10 F.3d 90, 96 (2d Cir. 1993). However, Barclays has provided no cause, much less “good cause,” for its failure to timely answer the complaint or appear in this action. Ordinarily Barclays’s answer, alone, would not excuse Barclays’s default. However, the Court has a “preference for resolving disputes on the merits,” and thus “defaults are generally disfavored.” Id. at 96.

Accordingly, it is HEREBY ORDERED:

1. Barclays's time to answer, move, or otherwise respond to the complaint is extended nunc pro tunc to September 1, 2021.
2. Because Barclays is no longer in default, the Court's August 31, 2021, Order is VACATED. (Doc. #20). All deadlines set therein are cancelled.
3. The Court will separately issue a notice of initial conference.

Dated: September 2, 2021
White Plains, NY

SO ORDERED:



Vincent L. Briccetti
United States District Judge